

JOHN ANTHONY GENTRY v. PAMELA ANDERSON TAYLOR, ET AL.
Hearing on 12/09/2016

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

JOHN ANTHONY GENTRY,

Plaintiff,

v.

PAMELA ANDERSON TAYLOR, and
BRENTON HALL LANKFORD,

Defendants, Jointly and
Separately.

COPY

CASE NO. 16C2615

PROCEEDINGS

BEFORE THE HONORABLE AMANDA MCCLENDON

December 9, 2016

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EXHIBIT 5

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<p>1 APPEARANCES:</p> <p>2 For the Plaintiff, pro se</p> <p>3 JOHN GENTRY</p> <p>4 208 Navajo Court</p> <p>5 Goodlettsville, Tennessee 37072</p> <p>6 johng@estartsolutions.co</p> <p>7</p> <p>8 For the Defendant:</p> <p>9 ERIKA R. BARNES, ESQ.</p> <p>10 Stites & Harbison, PLLC</p> <p>11 401 Commerce Street</p> <p>12 Suite 800</p> <p>13 Nashville, Tennessee 37219</p> <p>14 (615) 782-2252</p> <p>15 ebarnes@stites.com</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 PROCEEDINGS</p> <p>2 THE COURT: Gentry v. Taylor. This is</p> <p>3 the Defendants' motion to dismiss. So this is the</p> <p>4 Defendants' motion to dismiss, so Defendant goes</p> <p>5 first.</p> <p>6 MS. BARNES: Morning, Your Honor.</p> <p>7 THE COURT: Good morning.</p> <p>8 MS. BARNES: I'm Erica Barnes of the law</p> <p>9 firm Stites and Harbison, here on behalf of Defendants</p> <p>10 Pam Taylor, who is with us today, and Defendant Brent</p> <p>11 Lankford. And we have filed this motion to dismiss</p> <p>12 the complaint that was filed by Mr. Gentry. The</p> <p>13 Defendants, Ms. Taylor and Mr. Lankford, were the</p> <p>14 attorneys for Mr. Gentry's ex-wife in their divorce</p> <p>15 action in Sumner County.</p> <p>16 The Plaintiff appears to be dissatisfied</p> <p>17 with the results of the Sumner County divorce</p> <p>18 litigation, the proper course of which is to appeal</p> <p>19 that litigation to the Court of Appeals, which</p> <p>20 Mr. Gentry has done. The proper course of action is</p> <p>21 not to sue your ex-wife's lawyers in trial court in</p> <p>22 another county, which is what this case is all about.</p> <p>23 I know Your Honor has looked at</p> <p>24 everything, but I will run over the legal grounds</p> <p>25 quite quickly for the reasons why Ms. Taylor and</p>
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<p>1 INDEX</p> <p>2</p> <p>3 PROCEEDINGS:</p> <p>4 Motions 04</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Mr. Lankford should be dismissed from this litigation.</p> <p>2 THE COURT: Okay.</p> <p>3 MS. BARNES: The first is a litigation</p> <p>4 privilege. The acts that Ms. Taylor and Mr. Lankford</p> <p>5 took in the Sumner County action were solely in their</p> <p>6 capacity as counsel for Ms. Gentry. They did not take</p> <p>7 any actions on their individual behalf.</p> <p>8 On page 5 of the memorandum that we filed</p> <p>9 in support of the motion to dismiss, the Unarco</p> <p>10 (phonetic) case set forth the elements for when</p> <p>11 counsel are protected by litigation privilege. When</p> <p>12 counsel is acting in their capacity as counsel,</p> <p>13 they're acting in good faith for the benefit of their</p> <p>14 client, the conduct related to the subject matter of</p> <p>15 the litigation, and there's a nexus between the</p> <p>16 attorney's conduct and the litigation.</p> <p>17 The specific facts alleged in the</p> <p>18 complaint show that each of these elements is true,</p> <p>19 that all action taken by the Defendants related to</p> <p>20 their representation of Mrs. Gentry in the underlying</p> <p>21 divorce action [sic].</p> <p>22 There are complaints that there were</p> <p>23 unreasonable delays in the Sumner County action; there</p> <p>24 is a complaint about the Defendant seeking attorneys'</p> <p>25 fees on behalf of their client in the underlying</p>

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<p>Page 6</p> <p>1 Summer County action, and there's a complaint about 2 Defendants filed a motion to quash a subpoena in the 3 underlying Summer County Court action, and, likewise, 4 a complaint about the proposed orders submitted by the 5 Defendants on behalf of their client to the Summer 6 County Court. Notably, the parties litigated that 7 issue in Summer County, and the judge ultimately is 8 the one, of course, who signed the order. If the 9 judge believes that the terms of the order were 10 submitted to him incorrect or otherwise inconsistent 11 with his ruling, he would not have signed it.</p> <p>12 All of these actions complained about 13 were actions taken by Ms. Taylor and Mr. Lankford in 14 the course of their representation solely to further 15 the representation of their client. This -- there's 16 no private cause of action to be brought against the 17 Defendants acting in their capacity as lawyers with 18 respect to the litigation privilege.</p> <p>19 As a matter of law, these claims are 20 improperly brought. These claims -- on a 21 res judicata, these claims were already litigated. 22 They were litigated in Summer County. They're being 23 litigated in the Court of Appeals. Everything 24 complained of are actions from the Summer County 25 Court. They are not actions taken outside that</p>	<p>Page 7</p> <p>1 litigation.</p> <p>2 With respect to the fraud claims, we 3 submit that any fraud claims were not pled with 4 particularity pursuant to Rule 9.02. The complaint 5 does not allege any misstatements specific by the 6 Defendants, any reliance by the Plaintiff, or any 7 damages that he incurred as a result.</p> <p>8 The abuse of process claims, we submit 9 that there is no private right of action provided by 10 the Tennessee Rules of Professional Conduct, which is 11 what the allegations are, is that there were 12 violations by Defendants of the Rules of Professional 13 Conduct. Those are disciplinary rules. They do not 14 give parties a private right of action.</p> <p>15 With respect to the claims for a civil 16 conspiracy, in order to meet the initial threshold to 17 pursue a civil conspiracy claim, the Plaintiff would 18 have to prove successfully a tort claim of some sort; 19 for the reasons I've previously discussed, we believe 20 the tort claim has failed as a matter of law and 21 should not proceed.</p> <p>22 Even if the Plaintiff were able to prove 23 a tort claim, a conspiracy could not be held by the 24 Defendants as lawyers in the same law firm. They're 25 not conspiring together, they're pursuing a single</p>	<p>Page 8</p> <p>1 interest, the law firm's interest. The law firm 2 technically was the party representing Mrs. Gentry by 3 the lawyers Ms. Taylor and Mr. Lankford. And so the 4 law firm itself is a single entity and has a single 5 interest. There is nothing to conspire together.</p> <p>6 Page 10 of the memorandum that I 7 submitted cites the Trau-Med case, holding that there 8 can be no actionable claim of conspiracy where the 9 conspiratorial conduct alleged is essentially a single 10 act by a single corporation acting through its 11 officers, directors, employees, and other agents, each 12 acting within the scope of his or her employment. 13 There simply is no basis for a conspiracy between two 14 individual employees or representatives of a law firm.</p> <p>15 The final claim is an intentional 16 infliction of emotional distress claim, submit that 17 that claim fails for a number of reasons, primarily 18 that there has been no serious mental injury pled as 19 required by the elements for intentional infliction, 20 and, also, that any conduct alleged doesn't rise to 21 the level of outrageous, as would be required to 22 sustain a claim for intentional infliction of emotion 23 distress.</p> <p>24 At the bottom -- bottom line, Ms. Taylor 25 and Mr. Lankford zealously represented their client,</p>	<p>Page 9</p> <p>1 as they are obligated to do by the rules governing 2 them as lawyers. They acted in their capacity as 3 lawyers, and Mr. Gentry should not be permitted to 4 proceed with this cause of action against Ms. Taylor 5 and Mr. Lankford.</p> <p>6 THE COURT: Thank you. 7 MS. BARNES: Thank you. 8 THE COURT: Response, please. 9 MR. GENTRY: Good morning, Your Honor.</p> <p>10 The Defendants falsely assert that my complaint should 11 be dismissed based on litigation privilege 12 res judicata and a failure to state a claim with 13 particularity and that I'm attacking the rulings of 14 the underlying litigation, which is not true. And 15 their arguments for litigation privilege and 16 res judicata failed completely.</p> <p>17 Litigation privilege does not apply to 18 complaints of malicious abuse of process or fraud. 19 Also, to sustain a defensive res, it must be true that 20 the res affected of two suits is the same, that the 21 proceedings were for the same object and the same 22 purpose, the point being directly an issue which is 23 not true in this case. The underlying litigation was 24 a divorce case.</p> <p>25 This is a complaint for their abuse of</p>
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<p>Page 10</p> <p>1 process and for their actions of fraud. Defendants do</p> <p>2 not anywhere represent or defend their abuse of</p> <p>3 process. They -- they respond to the fraud, they</p> <p>4 respond to the civil conspiracy, but they don't</p> <p>5 respond to my tort of abuse of process anywhere in</p> <p>6 their defense because they have no defense for it,</p> <p>7 Your Honor.</p> <p>8 I have some evidence that I could just</p> <p>9 put up on the screen for Your Honor. I think I just</p> <p>10 slip this under here; is that right?</p> <p>11 THE CLERK: Yes, sir.</p> <p>12 MR. GENTRY: Can I zoom that down a</p> <p>13 little bit?</p> <p>14 THE CLERK: (Assists.)</p> <p>15 MR. GENTRY: Thank you, sir.</p> <p>16 Your Honor, when they blatantly -- when</p> <p>17 they blatantly abuse process and defy the Court and</p> <p>18 they overrule the Court's instructions, they go too</p> <p>19 far. When they say, I don't care what the judge says,</p> <p>20 this is how it's going to be, they go too far.</p> <p>21 In the final hearing of the divorce</p> <p>22 case -- so you see here, the Court said, (as read)</p> <p>23 Yeah, I think so, there's no reason to submit anything</p> <p>24 other than findings of fact and conclusions of law.</p> <p>25 The Court gave specific instruction to the Defendants</p> <p>Page 11</p> <p>1 not to tender any documents other than findings of</p> <p>2 fact and conclusions of law. The Court said this four</p> <p>3 times and gave very specific instructions, Your Honor.</p> <p>4 The Court asked if there were any more questions, and</p> <p>5 here I said, (as read) Just about the attorney fees,</p> <p>6 Your Honor. And the Court said, I am not going to</p> <p>7 make a decision on that, I'm going to go back and look</p> <p>8 at my notes. The Court specifically said, I'm not</p> <p>9 making a ruling on awarding of attorney fees.</p> <p>10 So the Court went on to say, down here --</p> <p>11 and it said, (as read) Mr. Lankford, if you want to</p> <p>12 submit a divorce declaring the party's divorce today</p> <p>13 reserving all other issues for the Court, we'll go</p> <p>14 ahead and sign that. But I think I am simply going to</p> <p>15 declare the parties divorced today. Nothing else.</p> <p>16 The Court gave very specific instructions.</p> <p>17 During this case, the Court was</p> <p>18 tremendously biased against me. I was against a</p> <p>19 topnotch legal team. I wasn't heard throughout the</p> <p>20 proceedings of that case. When I finally had a chance</p> <p>21 to present my evidence and present my sincere</p> <p>22 testimony to the Court, I completely flip-flopped the</p> <p>23 Court. And he came to my side, and he saw that he had</p> <p>24 been deceived for over two years by Defendants and</p> <p>25 their client. And the Court indicated it was going to</p>	<p>Page 12</p> <p>1 return attorney fees to me, and he said that he was</p> <p>2 going to treat my equitable distribution -- motion for</p> <p>3 equitable distribution of assets as a proposed</p> <p>4 division of assets. I completely turned this judge</p> <p>5 over.</p> <p>6 So the Court said, as noted in the</p> <p>7 transcript, (as read) Go ahead and submit a final</p> <p>8 decree, Mr. Lankford. And they did that in this</p> <p>9 document. And I would draw the Court's attention to</p> <p>10 the title of this document, which says, (as read)</p> <p>11 Final Decree Granting Divorce and Reserving All Other</p> <p>12 Issues. This order was prepared by the Defendants,</p> <p>13 and they plainly recognized to reserve all other</p> <p>14 issues for the Court.</p> <p>15 I would also draw the Court's attention</p> <p>16 to the final sentence, which says, (as read) There</p> <p>17 will be another order forthcoming with respect to</p> <p>18 property division, and all other -- and all other</p> <p>19 matters shall issue. So this is their order, and they</p> <p>20 were recognizing the Court's instructions and properly</p> <p>21 doing what the Court was instructing them to do.</p> <p>22 But then the Court had said, (as read)</p> <p>23 I'm going to rule on attorney fees. I can do that</p> <p>24 before you submit findings of fact. The Court ordered</p> <p>25 findings of fact due in 30 days. The Court forgot</p> <p>Page 13</p> <p>1 about it, and the Court did not rule on the attorney</p> <p>2 fees.</p> <p>3 So 42 days later, in defiance of the</p> <p>4 Court, they tendered this order. And in this order</p> <p>5 they awarded themselves attorney fees. They denied my</p> <p>6 motion for equitable distribution of marital assets.</p> <p>7 And it's in the transcripts. I can present it to the</p> <p>8 Court now if you need to see it, but the judge</p> <p>9 specifically said, (as read) I'm going to treat that</p> <p>10 as a proposed division, but they deny it in here.</p> <p>11 The rest of this order can in no way, the</p> <p>12 facts will show -- if we get to trial, the facts will</p> <p>13 show that the items that they included in their order</p> <p>14 do not in any way reflect the deliberations of</p> <p>15 decisions of that court, no way whatsoever.</p> <p>16 Sorry, Your Honor, I have a lot of papers</p> <p>17 going on here.</p> <p>18 And I would just point out, Your Honor,</p> <p>19 when they tendered that order to the Court, they were</p> <p>20 effectively saying to the Court, We don't care what</p> <p>21 you said, this is how it's going to be.</p> <p>22 THE COURT: That's not how that works,</p> <p>23 judges refuse orders all the time.</p> <p>24 MR. GENTRY: In -- on September 15th of</p> <p>25 2015, they also tendered another fraudulent document</p>
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<p style="text-align: right;">Page 14</p> <p>1 to the Court. I have a copy of their transcript here.</p> <p>2 And I'll go over this in just a minute. The</p> <p>3 transcript evidence is that Defendant Lankford</p> <p>4 directly handed the judge an unsolicited basis of his</p> <p>5 recusal denial. I had asked that judge to recuse</p> <p>6 himself, and the judge -- an order prepared by</p> <p>7 Defendants -- just said, Motion denied. And the judge</p> <p>8 failed to state his basis for his decision pursuant to</p> <p>9 Rule 10B, Section 1.03.</p> <p>10 The transcript evidence is that</p> <p>11 Mr. Lankford handed to the judge an unsigned document.</p> <p>12 The document shows a certificate of service coming</p> <p>13 from the court clerk to me. They were plainly and</p> <p>14 obviously circumventing rules of procedure,</p> <p>15 circumventing the Clerk's Office, and intentionally</p> <p>16 and fraudulently making -- attempting to make it</p> <p>17 appear as though the document came from the Court and</p> <p>18 not through them.</p> <p>19 If it was even remotely okay for them to</p> <p>20 tender a document directly to the judge, which it is</p> <p>21 not, the certificate of service should have been from</p> <p>22 Defendants to me and not from the Court to me. The</p> <p>23 malicious intent and abuse of process is undeniable.</p> <p>24 They were putting themselves forth as though they were</p> <p>25 the Court.</p>	<p style="text-align: right;">Page 16</p> <p>1 During that hearing, Mr. Lankford had</p> <p>2 said, Mr. Gentry brought up -- I'm looking here in the</p> <p>3 transcript (indicating). It says, (as read)</p> <p>4 Mr. Gentry brought up issue of Rule 10 about findings</p> <p>5 of fact. We've drafted a response back. The Court</p> <p>6 has already entered the order, but just to lighten the</p> <p>7 mood. So you can plainly see that he's handed the</p> <p>8 judge an unsigned document.</p> <p>9 Local rule, Sumner County 1.4 states,</p> <p>10 (as read) All pleadings, papers, orders, briefs shall</p> <p>11 be signed by the attorney of record. Local rule,</p> <p>12 Sumner County 1.12 states, (as read) All papers,</p> <p>13 including pleadings, motions, briefs, proposed</p> <p>14 judgments and orders shall be submitted to the</p> <p>15 appropriate clerk. The rule specifically states,</p> <p>16 (as read) Papers shall not be mailed to or left with</p> <p>17 the judge.</p> <p>18 Tennessee f of Civil Procedure 11.01(a)</p> <p>19 state, (as read) Every pleading, motion, paper shall</p> <p>20 be signed by at least one attorney of record. So not</p> <p>21 only were they in violation of the local rules and</p> <p>22 abuse of process, they were in violation of Tennessee</p> <p>23 Rules of Procedure.</p> <p>24 Rule 5.06, Tennessee Rules of Procedure</p> <p>25 state, (as read) The filing of pleadings and other</p>
<p style="text-align: right;">Page 15</p> <p>1 This is a copy of the unsigned document</p> <p>2 that they tendered to me. And you'll notice that the</p> <p>3 certificate of service says "Circuit Court Clerk." So</p> <p>4 they were presenting themselves as the Court, their</p> <p>5 intention was that this document was to come from the</p> <p>6 Court to me. The certificate of service should have</p> <p>7 been from the Defendant -- either Defendant Lankford</p> <p>8 or Defendant Taylor to me.</p> <p>9 THE COURT: Not in all circumstances --</p> <p>10 MR. GENTRY: I'm sorry, I'm hard of</p> <p>11 hearing, Your Honor.</p> <p>12 THE COURT: I said, not in all</p> <p>13 circumstances. Mr. Brick signed a certificate of</p> <p>14 service this morning on slow pay. There are</p> <p>15 circumstances in which the deputy clerk signs the</p> <p>16 certificate of service.</p> <p>17 MR. GENTRY: So here is the -- this is</p> <p>18 the signed copy of the document here, Your Honor.</p> <p>19 Cops, is that not showing up?</p> <p>20 (Assistance provided by the clerk.)</p> <p>21 MR. GENTRY: Thank you.</p> <p>22 So this is a signed copy, and you can see</p> <p>23 that it crossed out "service from the Court" and wrote</p> <p>24 in his own name here. I received this two days later</p> <p>25 in e-mail from Defendants.</p>	<p style="text-align: right;">Page 17</p> <p>1 papers shall be made with filing them with the clerk,</p> <p>2 except that the judge may permit the papers to be</p> <p>3 filed with the judge.</p> <p>4 Now, if you notice in the transcript</p> <p>5 here, he went on to say, (as read) We have proposed --</p> <p>6 he said, (as read) We have presented to the Court and</p> <p>7 we can provide that to the Court in a Word document.</p> <p>8 Which my assertion is is that it was for the Court to</p> <p>9 receive an electronic document so that they could make</p> <p>10 it appear as though it came from the Court and not</p> <p>11 from them. Rule 10B, Section 1.103 says, (as read)</p> <p>12 The judge shall state in writing his reasons for</p> <p>13 denial. They were plainly representing themselves as</p> <p>14 the Court, Your Honor.</p> <p>15 The Court gave instruction then, said --</p> <p>16 because I objected to it, I said -- you know, I didn't</p> <p>17 understand it was abuse of process at the time, but</p> <p>18 just, intuitively, something seemed wrong to me with</p> <p>19 them handing a document to the judge like that. So I</p> <p>20 was asked -- and, also, I'm hard of hearing.</p> <p>21 Mr. Lankford spoke very quietly, and I could hardly</p> <p>22 hear him.</p> <p>23 So I said, I didn't hear that, what is</p> <p>24 this? And we were in a small court room. I was from</p> <p>25 here to Mr. Lankford (indicating), and I couldn't hear</p>

<p style="text-align: right;">Page 18</p> <p>1 what he was saying. I said, I can't hear this, what 2 is this? And he said, We have this, and we can send 3 it in a Word document. And I said, I haven't gotten a 4 copy of this, have I? And he said, No, you have not. 5 I think it was only because I -- I 6 instinctively saw something wrong was going on here 7 that that document didn't go through the judge and 8 ended up getting signed. But the Court specifically 9 instructed and ordered the court officer to escort 10 Mr. Lankford to the Clerk's Office to file the 11 document. So, plainly, he did not have permission of 12 the judge to receive papers, so he was not only in 13 violation of the local rules of Sumner County in an 14 abuse of process, but he was in violation of the 15 Tennessee Rules of Civil Procedure as well, because he 16 did not have permission of the judge. 17 When Mr. Lankford stated, We've drafted 18 the response back, we have proposed findings and 19 conclusion of law, this document is not a response. 20 It is not proposed findings and conclusions. It's not 21 the title of the document. This document was an 22 unsolicited, fraudulent representation of themselves 23 as the Court. Defendants' statement -- and we've 24 drafted a response back -- was just a sneaky and 25 underhanded effort to slip the Court an ex parte</p>	<p style="text-align: right;">Page 20</p> <p>1 In the case, Bell Snyder v. ICARD, 986 2 SW 2d Volume, 550, Tennessee Supreme Court, 1999, 3 Supreme Court of Knoxville stated, (As read) To 4 establish a claim of abuse of process in Tennessee, as 5 in a majority of other jurisdictions, two elements 6 must exist: The existence of an ulterior motive, an 7 act of the process other than such as would be proper. 8 The Court emphasized in that case, citing 9 a Priest case from earlier, the test as to whether 10 abuse of process is whether the process had been used 11 to accomplish some end which is with -- which is 12 without regular purview of the process. 13 Abuse of process occurs when the process 14 is perverted. And, Your Honor, I think when they 15 tendered an unsigned document, violating multiple 16 rules of procedure, representing themselves as the 17 Court, I think that is about as perverse abuse of 18 process as you can get. 19 Defendants, in their motion to dismiss, 20 they falsely assert that litigation privilege 21 precludes an attorney for acts in scope of an 22 attorney's representation of clients in litigation. 23 Your Honor, fraud and abuse of process are never 24 within the scope of representation. 25 Defendants cites Simpson Strong, Stewart</p>
<p style="text-align: right;">Page 19</p> <p>1 fraudulent document while bypassing proper filing 2 procedure and service to me, Your Honor. 3 On September 16th -- on September 16th, 4 -- I have a copy of their affidavit for all the items 5 that they billed their client for. On September 16th, 6 in this document, the day after the hearing -- right 7 here, Your Honor, they billed time, (as read) 8 Conference with Pam Taylor, RE service proposed 9 findings of fact, motion to recuse. 9/16 is the day 10 after that hearing. 11 They are discussing service, Your Honor. 12 They're discussing service because they know they got 13 caught red-handed tendering a falsified ruling of the 14 Court in violation of multiple rules of procedure. 15 The Court can plainly see that they violated the local 16 rules and the Tennessee Rules of Procedure for filing 17 a document, and that is an abuse of process. 18 And when we get into whether I stated my 19 complaint of fraud in particularity, the fact that I 20 have an abuse of process and clear evidence of abuse 21 of process, the motion to dismiss of the Defendants 22 should be denied because there is no need to state 23 abuse of process with particularity, as there is that 24 requirement of Rule 9.02, but which I will show the 25 Court that I did satisfy.</p>	<p style="text-align: right;">Page 21</p> <p>1 Estes, which is a case about a defamation suit, and in 2 a defamation suit litigation privilege does apply. My 3 case is not a defamation suit, and why they cited this 4 case is beyond me. 5 Defendants then turned to West Virginia 6 case to support their false defense. And the case is 7 Clark v. Druckman, 624, a West Virginia case. I cited 8 it in my complaint -- or in my response to their 9 motion to dismiss, excuse me. 10 I will first point out that they 11 misspelled "Druckman" as "Duckman" in their motion to 12 dismiss. But what I would really draw the Court's 13 opinion to -- or the Court's attention is the real 14 opinion of that case. In Clark v. Druckman, the West 15 Virginia state- -- the West Virginia court stated the 16 following -- this is their case citation in their 17 motion to dismiss, Your Honor. And the Court stated, 18 in West Virginia, (as read) In Collins, we recognize 19 that absolute privilege, such as litigation privilege, 20 should only be permitted in limited circumstances. 21 Thus, we do not believe that litigation privilege 22 should apply to bar liability of an attorney in all 23 circumstances. An attorney is not liable to a 24 non-client absent a finding of fraud or malicious 25 conduct by an attorney. The one tort accepted from a</p>

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<p>1 breach of litigation privilege is malicious</p> <p>2 prosecution or malicious use of process. If an</p> <p>3 attorney commits actual fraud in dealings with a third</p> <p>4 party, the fact that he did so in a capacity for a</p> <p>5 client does not relieve him.</p> <p>6 And in conclusion, that West Virginia</p> <p>7 court, they cited in their case again. In conclusion,</p> <p>8 they said, (as read) However, the litigation privilege</p> <p>9 does not apply to claims of malicious prosecution and</p> <p>10 fraud. I think in not presenting the full opinion and</p> <p>11 omitting the actual statements of that Court, I think</p> <p>12 it's a misrepresentation of the opinion, Your Honor.</p> <p>13 Defendants then cite Mackie Laundry, a</p> <p>14 Missouri case, yet another inapplicable case to</p> <p>15 their -- to their motion to dismiss, but, in fact,</p> <p>16 also substantiates my cause of action. In Mackie, it</p> <p>17 claims that it was in error to the Court to hold that,</p> <p>18 as a matter of law, an attorney is immune from</p> <p>19 liability for civil conspiracy with their client. I</p> <p>20 do not assert in any way that they conspired with</p> <p>21 their client. I think they did it in and of</p> <p>22 themselves.</p> <p>23 In their own argument, in their own</p> <p>24 complaint they contradict this case citation in their</p> <p>25 memorandum, and they specifically recognize that I do</p>	<p>1 case that I just discussed for the Court. In -- I'm</p> <p>2 drawing a blank, what was your name again?</p> <p>3 MS. BARNES: Ms. Barnes.</p> <p>4 MR. GENTRY: Thanks.</p> <p>5 Ms. Barnes had mentioned the Unarco</p> <p>6 (phonetic) case, Defendants completely misrepresent</p> <p>7 the opinion of this case; I would say it's more abuse</p> <p>8 of process, Your Honor, to misrepresent a case to the</p> <p>9 Court. On page 5 of their memorandum in support of</p> <p>10 motion to dismiss, they claim Tennessee has adopted a</p> <p>11 new rule, which isn't true. They falsely claim that</p> <p>12 litigation privilege applies to conduct during</p> <p>13 litigation. That is not what the Court of Appeals</p> <p>14 said in any way whatsoever in that opinion. The Court</p> <p>15 of Appeals was referring to attorney conduct prior to</p> <p>16 the commencement of litigation.</p> <p>17 The Unarco case -- in the Unarco case,</p> <p>18 the attorneys had put out an ad, Hey, if you bought --</p> <p>19 I don't know what it was -- nails or screws from</p> <p>20 Unarco, you may be entitled to a new deck, or</p> <p>21 something. And so they later had some litigation, and</p> <p>22 they were complaining abuse of process from -- or</p> <p>23 fraud from -- from the attorney. And in the Unarco</p> <p>24 case they said, prior to commencement of litigation --</p> <p>25 and I'll specifically reference what they said in</p>
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<p>1 not cert (phonetic) conspiracy with their client. So</p> <p>2 I don't know why they cited that case either. They</p> <p>3 also cite a Hawaii case, Kahala/Goodwill, which also</p> <p>4 further substantiates my cause of action.</p> <p>5 And, Your Honor, may I ask a question?</p> <p>6 THE COURT: Yes.</p> <p>7 MR. GENTRY: These cases were not</p> <p>8 attached to their motion to dismiss, and the rules for</p> <p>9 Davidson County and your own court rules, you ask that</p> <p>10 out of cite cases, federal jurisdiction cases be</p> <p>11 attached to their motions. I have all of these cases</p> <p>12 with me, would the Court like me to present copies so</p> <p>13 you can have the full opinion for your reference?</p> <p>14 THE COURT: Certainly.</p> <p>15 MR. GENTRY: Thank you, Your Honor.</p> <p>16 Should I go through this as I hit each case, or do you</p> <p>17 want me to just stack them up.</p> <p>18 THE COURT: Just stack them up, I think.</p> <p>19 MR. GENTRY: Thank you, Your Honor. So</p> <p>20 I'll lay out three copies, one for the Defendant and</p> <p>21 one for myself and one for the Court. So that's the</p> <p>22 Simpson case and the Snyder cases, and then here's the</p> <p>23 Clark/Druckman case that we just went over that proved</p> <p>24 my cause of action. And then this is the Matthew case</p> <p>25 that's irrelevant. And here is the Kahala/Goodwill</p>	<p>1 Unarco, (as read) The matters at issue here, however,</p> <p>2 do not pertain to communications by an attorney. The</p> <p>3 issue here is conduct, specifically the tort inducing</p> <p>4 a breach of conduct. Accordingly, we look to other --</p> <p>5 other jurisdictions for guidance, just as the Supreme</p> <p>6 Court did in the Simpson case. And so here the Court</p> <p>7 refers back to the Kahala/Goodwill case that I just</p> <p>8 referred to the Court, which substantiates my cause of</p> <p>9 action for abuse of process and that they're not</p> <p>10 protected by litigation privilege.</p> <p>11 So I really think that the -- the Unarco</p> <p>12 case -- and, you know, if you would just -- can we</p> <p>13 tender this to the Judge right now so you can see</p> <p>14 this? Because I think this is an important</p> <p>15 misrepresentation, Your Honor.</p> <p>16 (Tenders document.)</p> <p>17 (Sotto voce discussion between Mr. Gentry</p> <p>18 and the Clerk.)</p> <p>19 MR. GENTRY: So where I flag that case</p> <p>20 there, Your Honor, you can specifically see that</p> <p>21 it's -- the statement is prior to the commencement of</p> <p>22 litigation. So their assertion that litigation</p> <p>23 privilege applies to conduct, Your Honor, I think is a</p> <p>24 misrepresentation to this Honorable Court.</p> <p>25 In each and every case cited by</p>

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<p>1 Defendants, their citations are not only wholly</p> <p>2 inapplicable to the present matter at hand, their</p> <p>3 citations substantiate my cause of action and that</p> <p>4 they're not protected by litigation privilege.</p> <p>5 I would direct the Court's attention to a</p> <p>6 spot-on case issued by the Tennessee Court of Appeals.</p> <p>7 In the case Peerman v. Sidicane, 605 SW 2d 242,</p> <p>8 Tennessee Court of Appeals, Middle Section, 1980. The</p> <p>9 Appellant Court stated on its opinion, (as read) We</p> <p>10 are compelled to agree with the conclusion of counsel</p> <p>11 for the plaintiff that defendant's action is not one</p> <p>12 of defamation but is an action for abuse of process</p> <p>13 and the fact that defendant is an attorney does not</p> <p>14 afford him immunity.</p> <p>15 And here's the case for (inaudible).</p> <p>16 In the case Givens/Mullikin, 75 SW 3d at</p> <p>17 383, Tennessee Supreme Court 2002, (as read) When a</p> <p>18 party abuses process, his tortious conduct injures</p> <p>19 not only the intended target but offends the spirit of</p> <p>20 legal procedure itself. And I think with that</p> <p>21 fraudulent order representing themselves as the Court</p> <p>22 in violation of multiple rules of procedure was just</p> <p>23 that.</p> <p>24 These two examples that I gave you, Your</p> <p>25 Honor, are one of many. When we get into the facts,</p>	<p>1 Defendant cited Carter v. Townsend, I believe this was</p> <p>2 an unpublished case from 1991. In that case that they</p> <p>3 cited, a party asserting res defense must demonstrate</p> <p>4 that the same parties were involved in both suits and</p> <p>5 that the same cause of action was involved in both</p> <p>6 suits. This is a completely separate cause of action,</p> <p>7 Your Honor.</p> <p>8 Defendants go on and cite -- do I have --</p> <p>9 I have all of these cases filed for your reference,</p> <p>10 Your Honor. There's the Carter/Townsend case.</p> <p>11 Defendants cite Coreman v. Metro</p> <p>12 Government (phonetic), a 1965 Tennessee Supreme Court</p> <p>13 case. But the Court, even back then, stated,</p> <p>14 (as read) It must appear that, not only the res</p> <p>15 affected by the two suits is the same but that the</p> <p>16 proceedings were for the same object or purpose, the</p> <p>17 same point being directly an issue, which is not true</p> <p>18 in this case, Your Honor. I have a copy here.</p> <p>19 In the next case, Defendants reached back</p> <p>20 to 1956, New York Life Insurance v. Nashville Trust,</p> <p>21 Tennessee Supreme Court 56, stated much the same,</p> <p>22 (as read) That two suits must be the same in order for</p> <p>23 res judicata to apply. In New York Life, though --</p> <p>24 this is their case citation -- and to read the full</p> <p>25 opinion for the Court -- and, again, I think it's a</p>
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<p>1 the abuse of process is absolutely astounding. These</p> <p>2 cases that I presented to the Court today, those two</p> <p>3 set of facts are just easy ones that I could quickly</p> <p>4 present to the Court. As we go through the other</p> <p>5 evidence, it just takes longer, and I didn't want to</p> <p>6 burden the Court's time with it. But I just wanted to</p> <p>7 present two simple instances that were easy for me to</p> <p>8 show the Court. Their abuse of process in this -- in</p> <p>9 this case -- there's just a lot of it, Your Honor, and</p> <p>10 I don't want to represent to the Court that those two</p> <p>11 cases are all of them. There's a lot more.</p> <p>12 Defendants go on and cite that</p> <p>13 res judicata -- that they are protected because of</p> <p>14 res judicata. In their motion to dismiss, they stated</p> <p>15 (as read) Adopting of res judicata, which bars the</p> <p>16 second suit on the same cause of action with respect</p> <p>17 to all issues which were -- or could have been</p> <p>18 litigated in the former suit.</p> <p>19 Their claim of res judicata fails in that</p> <p>20 regard. The underlying litigation was a complaint for</p> <p>21 divorce. This is a complaint for abuse of process and</p> <p>22 fraud, and they are wholly separate causes of action,</p> <p>23 and so res judicata does not apply.</p> <p>24 Yet again, Defendants disprove their own</p> <p>25 argument and further substantiate my cause of action.</p>	<p>1 misrepresentation when they -- when they exclude</p> <p>2 pertinent parts of the opinion, and when that's</p> <p>3 excluded, it seems to me to be a misrepresentation to</p> <p>4 the Court. But in this New York Life v. Nashville</p> <p>5 Trust, the Tennessee Supreme Court stated, (as read)</p> <p>6 Clearly, the plea of res judicata should have been</p> <p>7 overruled. It certainly seems to us that this is an</p> <p>8 independent action and does not involve any retrial of</p> <p>9 the issues disposed in the former case.</p> <p>10 I'm not asking for a retrial of my</p> <p>11 divorce, I'm asking for relief from the fraud and</p> <p>12 abuse of process and the incredible suffering that I</p> <p>13 suffered at the hands of them.</p> <p>14 The Court went on to say, in this</p> <p>15 New York v. Nashville Trust, a plea of -- I'm sorry, I</p> <p>16 said that.</p> <p>17 The Court went on to say, (as read) And</p> <p>18 then, too, it is well said, it is generally held that</p> <p>19 the principles of res judicata may not be invoked to</p> <p>20 sustain fraud and that judgment obtained by fraud or</p> <p>21 collusion may not be used as a basis for the</p> <p>22 application of the doctrine of res judicata. And I</p> <p>23 have a copy of that New York case here -- or it's</p> <p>24 New York Life versus Nashville Trust.</p> <p>25 Defendants also cited another unpublished</p>

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<p>1 case from Tennessee Court of Appeals, 1996, and in 2 that case, Towe v. Brock, the Court stated 3 res judicata does not apply in the present case 4 because the former judgment did not dispose of the 5 counterclaim. And I have a copy of the Towe v. Brock 6 case.</p> <p>7 So Defendants make the false argument 8 that I failed to state with particularity my claim of 9 fraud as required by Tennessee Rules of Civil 10 Procedure 9.02, which is untrue. I would first point 11 out the obvious fact that my complaint not only 12 contains a claim of fraud, but my claim contains an 13 abuse of process. There's no -- again, I stated this 14 earlier, there's no particularity requirement for 15 abuse of process, and my complete -- my cause of 16 action cannot be dismissed in its entirety based on a 17 failure to state a claim, but I did. I did state my 18 claim with great particularity.</p> <p>19 Defendants cite U.S., a federal case, 20 another one that they did not attach to their -- to 21 their memorandum in violation of the local rules of 22 Davidson County, which requires that federal cases be 23 attached to briefs. Defendants cite U.S. Court of 24 Appeals, Sixth Circuit, Coffey v. Foamex. And in this 25 Coffey case, the Court of Appeals stated, (as read)</p>	<p>1 Case law shows us, though -- I apologize, 2 Your Honor, I wanted to get that copy case in here. 3 This is the federal court's case.</p> <p>4 Case law shows us, though, that that the 5 interpretation and intent of Rules 9.02 and 12.02 6 regarding particularity on claims of fraud, in the 7 case Eledge v. Eledge, Tennessee Court of Appeals 8 2016, Case No. M -- as in Mike -- 2015-01055, Court of 9 Appeals Rule 3 Civil Appeal; the Court stated, 10 (as read) The particularity requirement means that any 11 averment sounding in fraud must relate to or designate 12 one thing, singled out among many.</p> <p>13 And the Court went on to say, (as read) 14 In other words, particularity in pleadings requires 15 singularity of or pertaining to a single or specific 16 person, thing, group, or place. I very much 17 accomplished that, Your Honor. And I stated my claim 18 of fraud with particularity.</p> <p>19 Defendants then make the statement that 20 my complaint is about the underlying divorce, which is 21 absolutely not true, Your Honor. My complaint is how 22 they tendered orders to the Court, how they practiced 23 dilatory behavior, how they ignored e-mails, and the 24 list goes on. That's what my complaint's about. I'm 25 addressing the underlying litigation with the Court of</p>
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<p>1 Federal Rules of Civil Procedure 9(b) requires that 2 elements of fraud must be stated with particularity. 3 The Sixth Circuit reads this rule liberally, however, 4 requiring a plaintiff at a minimum to allege the time, 5 place, and content of the misrepresentation. And that 6 was a quote that Defendants included in their motion 7 to dismiss memorandum.</p> <p>8 But the Court went on to say, (as read) 9 The threshold test is whether the complaint places the 10 defendant on sufficient notice of misrepresentation 11 allowing the defendants to answer, addressing in an 12 informed way, plaintiff's claim of fraud. And they 13 have done so and proved that my pleading of 14 particularity -- they proved it by responding to me, 15 Your Honor, in how they responded, I stated it 16 particularly.</p> <p>17 Even assuming their assertion is true, 18 that I was -- that I had to state a specific date and 19 a specific time and a specific place, even if that is 20 true, I still accomplished that. One only need to 21 look to the fraudulent orders that I provided -- that 22 I referenced in my complaint. Those are date stamped, 23 and they were all filed in the Circuit County in the 24 Sumner Circuit County Court. So there is a time and 25 there is a date and there is a place stated.</p>	<p>1 Appeals and with the federal court in a civil rights 2 violation complaint. Those matters are being 3 addressed there. The case before us today is one of 4 their abuse of process and of their fraud.</p> <p>5 Defendants make the false argument that 6 they are not guilty of fraud because they didn't make 7 a false representation to me and that I didn't rely on 8 such a misrepresentation. A fraud tort does not 9 require a fraud representation be directed at the 10 plaintiff, nor does the fraud tort require a 11 plaintiff's reliance on a misrepresentation. Citing 12 Kincaid v. SouthTrust -- oh, let me get this Eledge 13 case, too, that I just mentioned, Your Honor.</p> <p>14 And this is the case, Kincaid v. 15 SouthTrust. In Kincaid v. SouthTrust, Tennessee Court 16 of Appeals 221 SW 3d Volume 32, the Court of Appeals, 17 Middle Section, 2006, (as read) Constructive fraud is 18 a breach of duty legal or equitable duty deemed 19 fraudulent because of its tendency to deceive others. 20 Constructive frauds are acts, statements, or omissions 21 which operate as virtual frauds on individuals. They 22 concern a breach of legal or equitable duty with or 23 without fraudulent intent and entail as an attribute 24 of fraud conduct which reasonably can be expected to 25 influence the conduct of others.</p>

<p style="text-align: right;">Page 34</p> <p>1 In the first example that I gave the 2 Court, where they defied the Court and tendered an 3 order in direct contradiction of the Court's 4 instructions, the Court said, Don't tender any other 5 documents, reserve all other matters for the Court. 6 I'm not ruling on attorney fees, I'm simply going to 7 declare them divorced. When they tendered that fraud 8 order to the Court, 42 days later, they knew that the 9 Court would be no longer mindful of the case that far 10 out. 11 As officers, sworn officers of the Court, 12 Your Honor, a judge is just going to trust that 13 they're representing his rulings and his 14 deliberations. And so I think the Court reasonably 15 relied on their representation for that order and 16 signed it. The transcripts show that the intent of 17 the Court was not what they ruled in that order. But, 18 you know, now the Court in that case is kind of stuck 19 in a [sic] rock and a hard place. He knew that he had 20 been deceived, and he knew that those attorney fees 21 should have come back to me. 22 And the other things that they ruled upon 23 did not reflect his deliberations. But he's stuck in 24 a [sic] rock and a hard place now because 25 he (inaudible) me and reverses his ruling, or he calls</p>	<p style="text-align: right;">Page 36</p> <p>1 occurred, I must have personally relied on the 2 misrepresentation, this case still meets that 3 requirement. I was, in fact, required by the Court, 4 under duress, to rely on that false misrepresentation. 5 I was forced by the Court to accept it. 6 The statements made by the Court, 7 evidence and certified transcripts prove the Court had 8 every intent to return those escrowed attorney fees to 9 me. The transcripts show that I turned the Court in 10 my favor. The transcripts will prove that the Court 11 signed the document and in error. And it was under 12 duress. I was forced to rely -- that that was, in 13 fact, the Court's ruling when it was not. And that 14 would be my argument in that regard, and I think I was 15 forced to rely on it as a misrepresentation. 16 Further, the unfortunate fact that the 17 judge signed this fraudulent order does not relieve 18 their culpability of fraud or abuse of process. 19 Simply because the trial court judge was duped through 20 misplaced trust or short memory -- and I don't mean 21 any disrespect at all, Your Honor, but it doesn't 22 negate the fact of fraud or abuse of process. 23 Those elements are still there. The fact 24 that he signed it doesn't negate the facts that the 25 Court said, Don't do it, don't submit. I'm not ruling</p>
<p style="text-align: right;">Page 35</p> <p>1 into question all of his orders. Because now you look 2 at his case and he's like, Well, you know, he just 3 seems to sign whatever is put in front of him. And 4 the Court cannot put himself in that position. So the 5 Court, I think, was just unable to admit that it was 6 in error in signing that fraudulent order. 7 I think the Court reasonably relied on 8 the representation of a sworn officer of the Court in 9 signing that order, and it's constructive fraud at a 10 minimum. Their actions, though, constitute actual 11 fraud. 12 Further citing Kincaid v. SouthTrust, 13 (as read) The elements of fraud are an intentional 14 misrepresentation of material fact, knowledge of the 15 representations' falsity, and injury caused by 16 reasonable reliance on the representation, and the 17 requirement that the representation involved the past. 18 The cases SouthTrust v. -- or Kincaid v. 19 SouthTrust, Dobbs v. Gunther, and the Eledge v. Eledge 20 case that I referred to all say the same thing, an 21 injury caused by reasonable reliance on the 22 representation. And they do not state that it must be 23 the plaintiff. So it had to be the person to rely on 24 that. But even if it is true, which it's not, but 25 even if it is true, that for actual fraud to have</p>	<p style="text-align: right;">Page 37</p> <p>1 on these things, don't tender anything else. Those 2 elements of abuse of process and those elements of 3 fraud or constructive fraud, they're all still there. 4 Even though he signed it, the facts show that it was 5 an abuse of process. 6 The Courts should not have to look at 7 every order and say, Let me check my notes. Is this 8 exactly what I ruled? The time -- you know, the 9 process of tendering orders -- party prepared orders 10 to the Court is for the efficiency of the judiciary. 11 And if the Courts have to go back and look at every 12 single thing and say, Is that exactly what I said, it 13 disrupts the efficiency of the judiciary. 14 In fact, since they made their false 15 representation to a court of law in their capacity as 16 sworn officers, makes their act of fraud even more 17 malicious. If I had voluntarily -- if I had 18 voluntarily been the one to rely on the 19 misrepresentation -- their false misrepresentation to 20 the judge wasn't just a misrepresentation to the 21 judge, Your Honor, it was an attack and a perversion 22 of the legal process itself, and it should be 23 offensive to all the judiciary, including this Court. 24 And I would say that it's the act of the 25 judge relying on their misrepresentation that caused</p>

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<p>1 me injury. And injury is one of the four elements 2 necessary for fraud. So the fact that he signed it 3 turns it into fraud.</p> <p>4 Defendants state that there can be no 5 civil conspiracy because they're members of the same 6 law firm. In the case Warwick v. Warwick, it's -- the 7 case number is E2011-01969, Court of Appeals, Rule 3, 8 Civil Appeal at Knoxville, in the Warwick v. Warwick 9 case, (as read) The elements for civil conspiracy are 10 a common design between two or more persons to 11 accomplish a concerted action, an unlawful purpose, or 12 a lawful purpose by unlawful means, an overt act in 13 furtherance of the conspiracy resulting in injury.</p> <p>14 Defendants make the assertion that I must 15 establish the existence of an underlying predicate 16 tort, which is true. This Court must recognize their 17 abuse of process. That must be obvious to the Court. 18 And so there's certainly an underlying tort. And the 19 Court must recognize the constructive fraud, and the 20 fraud as well, and so certainly there is an underlying 21 tort.</p> <p>22 Did somebody say -- oh, I'm sorry, I 23 apologize. I thought I heard somebody say something. 24 I'm really hard of hearing.</p> <p>25 They make the false assertion that</p>	<p>1 Court just heard a case citation, that when they're 2 acting in fraud or abuse of process that they're not 3 acting within the scope of their agency. It's never 4 true that fraud and abuse of process are within the 5 scope of agencies. That's never true, Your Honor.</p> <p>6 Furthermore, the foundation of this 7 doctrine lies more specifically in protection afforded 8 by the corporate veil and the doctrine that a 9 corporation as a whole is a separate and legal entity 10 in and of itself.</p> <p>11 Defendant Taylor is a membered partner of 12 her law firm, Sties & Harbison, which is a PLLC, a 13 professional limited liability company. By 14 definition, a PLLC creates a separation between the 15 individual and the entity. Defendant Lankford is an 16 associate of his law firm and not a member partner. 17 He is, therefore, an employee of the PLLC. Since the 18 Defendant Lankford is a partner and Defendant Lankford 19 is an employee, they are not afforded protection under 20 the corporate veil, which is what the Court was 21 referring to in that case.</p> <p>22 I think the Court has heard a lot in this 23 matter so far, does the Court need -- do you feel any 24 need to hear anything about intention infliction of 25 emotional distress?</p>
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<p>1 they're co-counsel and essentially one and the same 2 person. And you'll remember, Your Honor, they cited 3 Trau-Med, Trau-Med of America v. Allstate 71 SW 3d 4 691, Tennessee Supreme Court, 2002. In this case -- 5 and I think this is another misrepresentation of the 6 case to this court. In this case, the Court stated 7 (as read) However, where the alleged coconspirator is 8 an agent or employee of the same corporate entity and 9 is acting on the corporation's behalf, the 10 conspiratorial liability of the corporation becomes 11 less clear. And that's a specific reference -- it's a 12 specific quote that, the Court, it becomes less clear.</p> <p>13 Plainly, though, the Supreme Court does 14 not state that no conspiracy can exist as the 15 Defendants falsely asserted to. In their motion to 16 dismiss memorandum they said that no conspiracy can 17 exist, and that is not what the Supreme Court said. 18 They said that it becomes less clear.</p> <p>19 The Supreme Court went on to say in that 20 case, (as read) We hold that there can be no 21 actionable claim of conspiracy -- or conspiratorial 22 conduct is essentially an act by a single corporation 23 acting through its officers and employees, each acting 24 within the scope of his or her employment.</p> <p>25 And in the preceding case today, the</p>	<p>1 THE COURT: No, I don't. I will take 2 this under advisement --</p> <p>3 MR. GENTRY: Your Honor, I'm so hard of 4 hearing --</p> <p>5 THE COURT: I will take this under 6 advisement so I can read the various cases you've 7 referenced.</p> <p>8 MR. GENTRY: I -- I would also like about 9 ten minutes -- seven minutes, I think I can do it in, 10 regarding my motion to strike.</p> <p>11 THE COURT: That's fine.</p> <p>12 MR. GENTRY: Thank you, Your Honor.</p> <p>13 THE COURT: But let's first deal with the 14 response to what you've argued thus far. We'll handle 15 each motion separately.</p> <p>16 MR. GENTRY: Can we pass up these cases 17 now?</p> <p>18 THE CLERK: Sure.</p> <p>19 MS. BARNES: Your Honor, all the actions 20 complained of are actions within the purview of the 21 Sumner County Circuit Court. Lawyers don't issue 22 orders, we make proposed orders to the Court. We may 23 provide suggests to the Court. The Court is free to 24 reject those suggestions at any point in time. The 25 Court is free to issues its own orders. And the Court</p>

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<p>1 is free to reject attorney orders. They do it all the 2 time.</p> <p>3 In this particular instance, the issue of 4 whether the terms of this order were correct were 5 already litigated. They were already litigated in the 6 Summer Circuit Court where the judge ultimately signed 7 the order. There is no impropriety for the attorneys 8 acting in the scope of their representation to submit 9 orders to the Court.</p> <p>10 I will point to the Court that there are 11 two issues from the underlying divorce case that are 12 currently before the Tennessee Court of Appeals: one 13 involves the division of marital property, which is 14 addressed in that order. The second issue before the 15 Court of Appeals is the trial judge's refusal to 16 recuse himself.</p> <p>17 I'll also point to the Court that there 18 is a pending lawsuit against the Summer Circuit Court 19 judge in the Middle District of Tennessee, Federal 20 Court, in which the Plaintiff is also complaining 21 about the impropriety of these orders. This is not 22 the venue for those -- the Plaintiff's complaint.</p> <p>23 To the extent the Summer Circuit Court 24 judge felt that Ms. Taylor and Mr. Lankford had acted 25 improperly, it is within his power to sanction them,</p>	<p>1 that, All orders -- actually, I think I -- I might 2 have it here with me. I might have cut it out of the 3 argument. I think I did. But the Supreme Court -- or 4 Tennessee Court of Appeals stated that party prepared 5 orders, while not recommended, are accepted. And they 6 went on to say that they should reflect the decisions 7 and the deliberations of the judge. And with that, we 8 are all in agreement. And that was a specific quote 9 from that case. When the orders that they tendered 10 defy the Court, it's -- it's not the purpose. It's an 11 abuse of process, and it's certainly constructive 12 fraud.</p> <p>13 I would point out that they do not 14 provide any case citations to support that position, 15 because there isn't going to be any case law 16 precedence supporting fraudulent orders tendered to 17 the Court.</p> <p>18 They stated that I'm complaining to the 19 federal court about the orders of the judge in the 20 underlying litigation. I don't want to bring it into 21 this venue, what happened in that venue, but it was 22 a -- it was a plain civil rights violation. And I 23 will just say, I'm so grateful to be heard today by 24 this Court. And I think you've certainly allowed me 25 to speak my case. And I want to express my</p>
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<p>1 to reject orders, or to otherwise take action to 2 maintain the priority of his own court. This is not 3 the place to complain about it. The Plaintiff had his 4 opportunity to complain about it. He did complain 5 about it. The orders were, in fact, signed by the 6 judge, and those orders are now on appeal before the 7 Tennessee Court of Appeals.</p> <p>8 Thank you.</p> <p>9 THE COURT: Thank you.</p> <p>10 Are you ready to proceed to your next 11 motion, sir?</p> <p>12 MR. GENTRY: I wasn't -- I wasn't 13 prepared for that argument, but I know a case, and I'm 14 trying to think of the case citation off of my head 15 [sic]. It was Phil (phonetic) something. But the 16 Court recognized that party prepared orders are 17 supposed to reflect the decisions and the 18 deliberations of the Court. They are not supposed to 19 contradict, and they are not supposed to defy the 20 judge's instructions.</p> <p>21 So these proposed orders -- and I would 22 point out, the Defendants do not cite any cases. And 23 if the Court would like, I can tender that order 24 that -- or that case that I'm referring to with -- I 25 believe it was the Court of Appeals, when they stated</p>	<p>1 appreciation to the Court for that.</p> <p>2 In the underlying litigation, I wasn't 3 even allowed to speak. I would make a two-sentence 4 statement, opposing counsel would make a statement, 5 and I would say, Can I respond to that, Your Honor? 6 No, you may not. And they would say something else 7 between opposing counsel and the judge, and I would 8 say, Can I just briefly respond, Your Honor? No, you 9 may not. This was in -- actually, I have the 10 transcripts here for that September 15th hearing; if 11 the Court is interested, I can tender that to the 12 Court today?</p> <p>13 THE COURT: No, thank you. That part 14 doesn't have any bearing on this right now.</p> <p>15 MR. GENTRY: But it -- that -- that 16 case -- I'm not just running around complaining about 17 the divorce. I'm complaining about their abuse of 18 process, and I'm complaining about that judge's 19 violation of my civil rights.</p> <p>20 You know, and as part of the abuse of 21 process in this complaint, I had requested discovery 22 through my attorney, initially, and through abuse of 23 process, they did not provide discovery. We went 24 in -- the discovery was requested in November of 2014. 25 We got into court on March 10th of 2015, several</p>

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<p>1 months later, and discovery had not been provided at 2 all. And I had provided my discovery long ago, and 3 they're filing a motion for me to update discovery 4 when they have provided nothing, nothing. 5 And so the Court issued an order to 6 comply with discovery. They ordered me to issue an 7 update to my discovery, and they ordered Defendants -- 8 or their client to provide discovery. And that was 9 ordered to be tendered on March 25th. 10 Item 3 of that motion -- or Item 3 of the 11 discovery request was for all evidence to be used, all 12 documents, all photographs, everything that you're 13 going to use in the divorce case against me, probably 14 the -- that's the most important part of discovery, 15 wouldn't you agree, Your Honor? They did not provide 16 that to me. And at the time I was just starting out, 17 learning law; prior to that, I had no experience, and 18 I did not know the law. I did not know procedure -- 19 didn't know the rules of procedure, and I didn't know 20 what was happening to me with that. 21 In February of 2016, I requested 22 discovery, and said, Hey, you guys are supposed to 23 provide this back on March 25, the Court ordered you 24 to. Can you extend me this Item 3 so I can start 25 preparing my case for May? Ms. Taylor ignored my</p>	<p>1 about that at all. 2 But anyway, after the case was reassigned 3 with the Board of Professional Responsibility, my case 4 was dismissed immediately. And Mrs. -- and Defendant 5 Taylor immediately went back to being nonresponsive. 6 And, in fact, she become completely unresponsive. 7 So I subpoenaed the documents that were 8 supposed to be provided in discovery. I should have 9 got them anyway, but she wouldn't e-mail me back, so I 10 had a subpoena issued for them. Ms. Taylor went in 11 and filed a motion to quash any and all subpoenas. 12 First of all, that can't be legal, to quash all 13 subpoenas. You cannot tie the hands of adverse 14 counsel like that. 15 The judge signed it anyway. Well, we 16 went into court -- and I guess this is why I brought 17 this up for the Court's attention about the civil 18 rights violation, we walked into court that day, and 19 the judge said, What are we here for today? And 20 Mr. Lankford said -- and this is in the transcripts, 21 Your Honor. Mr. Lankford said, Well, I've got three, 22 he's got four. 23 And I said I have a list, Your Honor, 24 (indicating). I have a list of all of the motions to 25 be heard today, including theirs. And he said, May I</p>
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<p>1 e-mails completely. She just -- I had filed an 2 earlier complaint with the Board of Professional 3 Responsibility because of Defendant Taylor's dilatory 4 behavior and how she would pick and choose what 5 e-mails she would respond to and how she would abuse 6 process through communications with adverse counsel. 7 And I complained to the Board of Responsibility for 8 that. 9 And during the time of my complaint to 10 the Board of Professional Responsibility, Ms. Taylor 11 was very responsive. The next day, two days later, I 12 hear from her. The case somehow, with the Board of 13 Professional Responsibility, got reassigned to another 14 attorney at the Board of Professional Responsibility. 15 And the new attorney that the case was assigned to 16 dismissed my complaint. My complaint was 40 pages 17 thick, with lots of evidence showing her abuse of 18 process, showing her violations of the Rules of 19 Professional Responsibility. 20 And I want to make a point about that. 21 They said that I'm complaining about Rules of 22 Professional Responsibility, I am not. I will take 23 that up with the Professional Board of Responsibility. 24 So when they gave argument and they cited cases about 25 Rules of Professional Responsibility, my case is not</p>	<p>1 see it? And I passed it to the bailiff and handed it 2 to the judge. And he said, Okay, wife's motion to 3 quash the witness subpoena, that's granted. And I 4 said, You don't want to hear arguments, Your Honor? 5 No, I don't need to. Wife's motion to quash any and 6 all subpoenas, that's granted. And I said, Your 7 Honor, I don't get to present any oral argument? And 8 he said, No, I get in here at six o'clock in the 9 morning, I read all your motions. I don't need to -- 10 I don't need to hear your arguments. I read all of 11 your motions. 12 Then the Court says to Mr. Lankford, 13 What's this one about? If he read them, why is he 14 asking? And Mr. Lankford explained to him that one. 15 And then he's like, Ah, Mr. Gentry has these other 16 two. Do we need to look at these? He's asking 17 adverse counsel if he needs to look at my motion, 18 which is kind of -- seems goofy to me. But it was a 19 complete violation of my civil rights. I wasn't 20 allowed to present arguments. 21 And, you know, I just wanted the Court to 22 understand, I'm not -- I'm not complaining of the 23 judge's rulings. They were erroneous. They were 24 ridiculous -- my assertion. I'm not challenging the 25 rulings of the Court in that federal complaint. I'm</p>

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<p>1 challenging how I was treated in that case. And it's</p> <p>2 a welcome change for me to come in here and be heard.</p> <p>3 THE COURT: Okay. Does that conclude the</p> <p>4 argument on the motion?</p> <p>5 MR. GENTRY: I apologize, I can't hear.</p> <p>6 THE COURT: Does that conclude the</p> <p>7 argument on the motion to dismiss? Can we now go to</p> <p>8 one of the other two motions?</p> <p>9 MR. GENTRY: Yes. For the -- well, I</p> <p>10 guess, really quickly, I have a motion that all orders</p> <p>11 should come through the Court and no party prepared</p> <p>12 orders, or, alternatively, that we only allow</p> <p>13 agreed-upon orders, Your Honor. Because of what</p> <p>14 happened in the other case, I'm just -- and I don't</p> <p>15 mean any disrespect to this Court, but I would just</p> <p>16 ask that any orders that come from parties are signed</p> <p>17 by both of us or that none of them come from us. And</p> <p>18 I think we can just --</p> <p>19 MS. BARNES: We did not file an objection</p> <p>20 to that motion. We are happy for the Court to prepare</p> <p>21 all orders in the case, given the history between the</p> <p>22 parties.</p> <p>23 THE COURT: That's fine. So that</p> <p>24 order -- well, let me see, Mr. Gentry, why don't we</p> <p>25 have you draft the order on this motion.</p>	<p>1 Defendants' representation of Plaintiff's ex-wife.</p> <p>2 Your Honor, I'm a very well educated person, and I</p> <p>3 understand the proper use of italics. I'm sure that</p> <p>4 we can waste plenty of the Court's time debating</p> <p>5 grammar. The Chicago Manual of Style, 14th Edition,</p> <p>6 commonly used by college professors, suggests the use</p> <p>7 of italics for foreign word and emphasis if a word is</p> <p>8 familiar, like "APRI" (phonetic) or "pro se." Such</p> <p>9 phrases may then be considered to be adopted into the</p> <p>10 English language and therefore not needing to be --</p> <p>11 not need to be italicized.</p> <p>12 I don't want to argue grammar in front of</p> <p>13 this Court. Let's cut to the chase, though. Would</p> <p>14 they start a brief and say, This is a represented</p> <p>15 litigant's case? No, they would not. And so when</p> <p>16 they say, This is a pro se litigant's complaint, it's</p> <p>17 a negative inference, Your Honor. It would be no</p> <p>18 different for the Defendants to make a racially</p> <p>19 discriminatory statement like, This is a black</p> <p>20 person's complaint, or a sexually discriminatory</p> <p>21 statement like, This is a gay person's complaint, or</p> <p>22 any other discriminatory statement based on age,</p> <p>23 gender, social class, race, sexual orientation, or</p> <p>24 religious affiliation. It's unnecessary, Your Honor,</p> <p>25 and I think it was intended to bias this Court.</p>
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<p>1 MR. GENTRY: I've never done that. Thank</p> <p>2 you, Your Honor. I would love that.</p> <p>3 THE COURT: So that's granted.</p> <p>4 MR. GENTRY: And I will tender that to</p> <p>5 Defendants' attorney of counsel for an agreed-upon</p> <p>6 order.</p> <p>7 THE COURT: You can do it agreed-upon, or</p> <p>8 you submit it and I will sign it if it's correct.</p> <p>9 MR. GENTRY: Okay. Thank you, Your</p> <p>10 Honor.</p> <p>11 THE COURT: Okay. Next is the motion to</p> <p>12 strike and alternative to recuse.</p> <p>13 MR. GENTRY: So on November 7th,</p> <p>14 Defendants tendered their memorandum supporting their</p> <p>15 motion to dismiss. And this memorandum included</p> <p>16 prejudicial, discriminatory statements, made an</p> <p>17 attempt to bias this court, I think. Their motion to</p> <p>18 dismiss included inappropriate, irrelevant citations</p> <p>19 that admitted the facts of those rulings and</p> <p>20 misrepresented the opinions of the cases cited. It</p> <p>21 included misspelled case citations, and it violated</p> <p>22 the local rules of Davidson County.</p> <p>23 The first sentence of Defendants'</p> <p>24 memorandum in their motion to dismiss states,</p> <p>25 (as read) This is a pro se complaint that arises from</p>	<p>1 In the case State v. Goltz, 111 SW</p> <p>2 Reporter, 3d Volume, Tennessee criminal -- Court of</p> <p>3 Criminal Appeals, 2003, (as read) Arguments which rely</p> <p>4 on racial, religious, ethnic, political, economic, or</p> <p>5 other prejudices of the jurors introduced elements of</p> <p>6 irrelevance and irrationality into the trial, which</p> <p>7 cannot be tolerated in a society based upon the</p> <p>8 equality of all citizens before the law.</p> <p>9 Defendants' intent in using this</p> <p>10 discriminatory statement is obvious, it's intended to</p> <p>11 state my case is not worthy of being heard because I'm</p> <p>12 self-represented. It's intended to say, since I'm not</p> <p>13 paying attorney fees, I should not receive a fair</p> <p>14 hearing, and it's intended as a buzz word to alert a</p> <p>15 sympathetic judge who is biased against pro ses. I</p> <p>16 think their attempt to corrupt this court is no</p> <p>17 different than if they had offered a bribe.</p> <p>18 As detailed and as I presented today and</p> <p>19 as I detailed in my memorandum and support of my</p> <p>20 motion to deny their motion to dismiss, I proved that</p> <p>21 the case -- the case citations that they included were</p> <p>22 misrepresentations of the opinions of those Courts. I</p> <p>23 think I proved that quite well, Your Honor.</p> <p>24 Violation of local rules of Davidson</p> <p>25 County court of record, it is my assertion that the</p>

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<p>Page 54</p> <p>1 Plaintiffs [sic] knowingly and intentionally refused 2 to comply with local rules of Davidson County 26.04. 3 When a memorandum cites an unrecorded Tennessee 4 decision or a decision of a court of another state or 5 a federal jurisdiction, counsel shall attach a copy of 6 the opinion to the memorandum. It's a local rule for 7 Sumner County, and they knew about this rule. The 8 evidence will show that they knew about this rule. 9 I think, and it's my assertion to this 10 Court, Defendants knowingly and intentionally ignored 11 this rule and failed to include an attached complete 12 copy of the opinion cited. It's an undeniable, 13 irrefutable fact that Defendants failed to adhere to 14 the reasonable rules of Davidson County. They did not 15 attach those briefs, undeniable. 16 It's my assertion that they failed to 17 comply with this rule intentionally, because the cases 18 that they cited were wholly inappropriate and were an 19 intentional misrepresentation to this Court. I just 20 proved that in what I presented to the Court today. 21 And if you took the time to look at my -- Plaintiff's 22 motion to deny, their motion to dismiss my memorandum, 23 I further substantiated in writing -- in that document 24 that they misrepresented these cases. 25 Exhibit 2 of that document, is an e-mail</p> <p>Page 55</p> <p>1 exchange between myself -- and Ms. Barnes is step-in 2 counsel for Counsel Lauren Paxton Roberts. But 3 Ms. Roberts and I had an e-mail exchange where I had 4 asked her for these cases because I couldn't find 5 them, because several of them are unreported cases. 6 And because they misspelled cases, I couldn't find 7 these cases. So I sent her an e-mail and said, Hey, 8 can you send me these cases? 9 And so Ms. Barnes responded and said, 10 Pursuant to Rule 26.04, I have to give you these 11 cases, but I don't have to give you these cases, which 12 she was mistaken, because she said she didn't have to 13 give me the federal case. I found the copy case 14 anyway, but she stated she didn't have to. Rule 26.04 15 specifically states that you're supposed to attach 16 federal rule jurisdictions and you're supposed to 17 provide a copy to opposing counsel. 18 Even when I requested that federal case, 19 Ms. Paxton still denied me that in violation of 20 Rule 26.04. And the Coffey case that we looked at 21 very nicely proved that I satisfied stating my claim 22 of fraud with particularity. That was the Coffey case 23 that we talked about, the Federal District Court, 24 where they said, you know, It just has to be stated 25 enough that they can respond to.</p>	<p>Page 56</p> <p>1 I think they intentionally didn't provide 2 that case because it substantiates, with their own 3 citation, that I did state my cause of action with 4 particularity. 5 Your Honor has the same rule specific to 6 your court. I have a copy of it -- actually -- 7 THE COURT: I'm focusing on your motion 8 to strike or, in the alternative, the motion to 9 recuse, so . . . 10 MR. GENTRY: I missed the last part, Your 11 Honor. 12 THE COURT: I'm trying -- wanting you to 13 focus on the argument for the motion to strike or, in 14 the alternative -- 15 MR. GENTRY: Your Honor, I have -- 16 THE COURT: -- your motion to recuse. 17 MR. GENTRY: There's an amended motion 18 that I filed with the Court. 19 THE COURT: I haven't seen that. 20 MR. GENTRY: I spoke with your -- 21 THE COURT: Okay. 22 MR. GENTRY: I spoke with your assistant, 23 whose got that Randy Travis smooth-sounding voice, 24 kind of deep -- 25 THE COURT: So --</p> <p>Page 57</p> <p>1 MR. GENTRY: Is that the amended one, 2 Your Honor? 3 THE COURT: So this is amended, then I 4 disregard this one (indicating)? 5 MR. GENTRY: Yes, ma'am. 6 THE COURT: Okay. 7 MR. GENTRY: Is it appropriate to say 8 "yes, ma'am" or, "Your Honor"? 9 THE COURT: That's fine. 10 MR. GENTRY: Thank you. Well, as part of 11 my motion to strike, I think they ignored the rules of 12 Davidson County and didn't attach briefs. I think 13 they used inflammatory and prejudicial and 14 discriminatory language in their complaints. I think 15 that they intentionally did not attach case law 16 citations because there's case law citations -- I 17 think they were just expecting the Court not to do its 18 due diligence and to not look at what the cases 19 actually said. And I think that's why they did not 20 attach those citations to their case. 21 And it's -- appears to me to be a 22 misrepresentation of this Court -- I think it is a 23 misrepresentation to this Court. And for that -- and 24 for those reasons I'm asking the Court to strike their 25 motion to dismiss from the record in it's entirety.</p>
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<p>1 It should never be appropriate for an attorney of 2 adverse counsel to attempt to bias the Court because I 3 can't afford representation and I have to represent 4 myself. You should never attempt to prejudice a court 5 based on a statement like that. They should have 6 complied with the rules of procedure.</p> <p>7 I would also point out, with respect to 8 the local rules, Rule No. 5, (as read) In all matters 9 I'll conduct myself with dignity and refrain from 10 engaging in acts of rudeness or disrespect. I think 11 it was disrespectful when they referred to me as 12 "pro se" the way that they did.</p> <p>13 I will refrain from commentary, that 14 with -- this is Rule 5, paragraph 10, (as read) I will 15 refrain from commentary that reflects references, 16 race, religion, national origin, or any other 17 demeaning fashion. And I think that when they made 18 that representation to the Court, they were in 19 violation of that rule as well.</p> <p>20 And with respect to adverse counsel, I 21 will endeavor to consult with adverse counsel before 22 making scheduling decisions and before any required 23 rescheduling. And I will cooperate with adverse 24 counsel when scheduling changes are required. Your 25 Honor, they didn't even bother to give me a phone call</p>	<p>1 intentional or inflammatory meant by the statement, 2 This is pro se.</p> <p>3 With respect to the complaints about 4 compliance with the local rules, I believe 5 Ms. Roberts, who's on maternity leave -- and I've 6 stepped in for her -- believed she was fully complying 7 with the local rules by providing the unpublished 8 cases upon request. We do not normally attach every 9 single case we cite. The case files would be 10 enormous, and a lot of trees would be killed. So we 11 generally do not attach all cases; certainly, provided 12 the unpublished cases to Mr. Gentry promptly when he 13 requested.</p> <p>14 With respect to his request for a default 15 judgment, even if the Court strikes the motion to 16 dismiss, the civil rules provide that we get 15 days 17 to answer the complaint after a motion to dismiss is 18 denied. At this point, the motion to dismiss is still 19 pending. There is no answer deadline in place, and 20 there is no default that has occurred.</p> <p>21 The thing I would like to focus on is the 22 alternative request, which is for Your Honor to recuse 23 herself. The motion appears to say, If you disagree 24 with me and do not strike the motion, then the Court 25 must be biased, and so it should be recused. I</p>
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<p>1 and say, Hey, is this date good for you? And I just 2 think they just ignore the rules of procedure, which 3 is systematic of their abuses of process that are 4 pertinent to my complaint, Your Honor.</p> <p>5 And so I would ask the Court to strike 6 from the record their motion to dismiss. And if the 7 Court strikes their motion to dismiss, then I would 8 ask for a judgment in default because they failed to 9 respond to my complaint.</p> <p>10 THE COURT: Okay. Thank you.</p> <p>11 MR. GENTRY: Thank you, Your Honor.</p> <p>12 THE COURT: Thank you.</p> <p>13 MS. BARNES: Your Honor, there was 14 nothing inflammatory or discriminatory meant by the 15 statement, This is a pro se complaint. If you would 16 look at the complaint filed by the Plaintiff, in the 17 very first sentence he says he's pro se counsel. His 18 amended motion to strike states, (as read) Plaintiff, 19 John Anthony Gentry, as pro se counsel. It is 20 commonly stated between both Plaintiff and Defendant 21 in this case that Mr. Gentry is representing himself.</p> <p>22 It was placed in italics. We believed 23 that the grammatical rules of the Blue Book required 24 it. We were incorrect, it would not be the first I've 25 made a grammar error. But there was nothing</p>	<p>1 believe Your Honor is aware from the pleadings and 2 prior argument that Counsel asked for the Summer 3 County judge to be recused as well. He has asked the 4 Court of appeals to recuse themselves. Losing a 5 motion is not grounds for a judge to recuse herself or 6 does not imply bias without something more. And the 7 judge simply ruling against a party on a motion is not 8 a reason for the judge to recuse herself, and 9 Mr. Gentry has not pointed to any allegations of bias 10 or other reasons why Your Honor should be recused.</p> <p>11 THE COURT: Thank you.</p> <p>12 MS. BARNES: Thank you.</p> <p>13 THE COURT: A brief response?</p> <p>14 MR. GENTRY: Yes, Your Honor.</p> <p>15 THE COURT: Or reply.</p> <p>16 MR. GENTRY: Ms. Barnes is correct, it 17 does state in my complaint that I'm pro se and all the 18 other places that she referenced, therefore it was 19 completely unnecessary for them to include that 20 statement. And I stand by the position that that was 21 a discriminatory statement, and it has no place.</p> <p>22 She stated that upon request they 23 provided me the cases that I asked for. Do you have, 24 Your Honor, Exhibit 2 attached to my amended motion to 25 strike? There should be an e-mail attached to that.</p>

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<p>1 THE COURT: Which one, Exhibit 1 or --</p> <p>2 MR. GENTRY: I believe it was Exhibit 1.</p> <p>3 There's an e-mail attached to it, Your Honor?</p> <p>4 THE COURT: There is Exhibit 1, there's</p> <p>5 an Exhibit 2.</p> <p>6 MR. GENTRY: Let me find my copy.</p> <p>7 THE COURT: The e-mails appear to be</p> <p>8 Exhibit 2.</p> <p>9 MR. GENTRY: I'm pretty sure it's</p> <p>10 Exhibit 2. It's an e-mail between Lauren Paxton</p> <p>11 Roberts and myself.</p> <p>12 THE COURT: I'm looking at this.</p> <p>13 MR. GENTRY: Oh, so you'll see in there I</p> <p>14 requested the cases, and she said that she didn't have</p> <p>15 to provide the federal case to me. It's in that</p> <p>16 e-mail. And that's the copy case that I was referring</p> <p>17 to. But the issue that I have with this, Your Honor,</p> <p>18 is not that they -- whether they provided the cases to</p> <p>19 me or not, which they -- I would say since she denied</p> <p>20 me the federal case that they still didn't comply.</p> <p>21 But the local Rule of Sumner County states that they</p> <p>22 are to attach their cases to it. And they failed to</p> <p>23 do that -- or the local rule for Davidson County</p> <p>24 states that.</p> <p>25 About the recusals, I would like for the</p>	<p>1 understand the law, and I'm going to defy your motion</p> <p>2 to strike, then, you know, I -- I hope the Court will</p> <p>3 understand, I've suffered greatly through the</p> <p>4 Defendants and through civil rights violations by the</p> <p>5 judge in the underlying case. And it's not lightly</p> <p>6 that I take a case to the federal court.</p> <p>7 And my complaint with the federal</p> <p>8 court -- with the federal court in that case is to --</p> <p>9 you know, hopefully that the judge will become a</p> <p>10 better judge because of it and not violate rights the</p> <p>11 way he did mine.</p> <p>12 In the appellate court, I -- I filed a</p> <p>13 motion to recuse with the trial court judge, and I --</p> <p>14 and the trial judge did not state his reasons denying</p> <p>15 my motion for recusal. So after the final hearing,</p> <p>16 and a motion to alter, I listed off eight pages of</p> <p>17 evidence of why that judge should recuse himself, when</p> <p>18 he says, Motion to quash, denied -- or granted for</p> <p>19 them, and motion for written subpoena, that's quashed.</p> <p>20 And then he goes through that list of things like</p> <p>21 that, it seems to me like a violation of my civil</p> <p>22 rights, and it also -- it seems like a bias of the</p> <p>23 Court to me. That's what it looked like to me. I</p> <p>24 think this Court would agree it is.</p> <p>25 And so I listed out eight pages of stuff</p>
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<p>1 Court to understand, because I think this is just</p> <p>2 another attempt to bias this Court against me, I</p> <p>3 stated in my -- in that amended motion to strike that</p> <p>4 if this Court could provide me with assurance, I would</p> <p>5 withdraw my motion to recuse. I stated that in my --</p> <p>6 that if I -- if I could be made to understand why</p> <p>7 their motion should not be stricken from the record.</p> <p>8 And I wanted that -- to know, out of respect for this</p> <p>9 Court, that I'm not just asking you to recuse yourself</p> <p>10 on a baseless matter.</p> <p>11 I think by them not complying with the</p> <p>12 rules, I think with them citing irrelevant cases and</p> <p>13 with them misrepresenting the citations, I think it</p> <p>14 should be offensive to this the Court. And I think</p> <p>15 that the Court should take curative measures for the</p> <p>16 discriminatory statement that they said.</p> <p>17 Now, in the previous case, you know, the</p> <p>18 judge would just say to me, Mr. Gentry, you don't know</p> <p>19 the law, you don't understand, and that's it. And</p> <p>20 they wouldn't give me any explanation as to why. And</p> <p>21 so if the Court could just say, Well, your motion to</p> <p>22 strike is invalid because of this and because of that,</p> <p>23 and it -- and it -- and it's in the rules and that's</p> <p>24 the way it is, I would be okay with that. I would.</p> <p>25 But if you just say, you know, Mr. Gentry, you don't</p>	<p>1 like that. He -- you know, the judge, he manipulated</p> <p>2 proceedings. In the -- in the September hearing, I</p> <p>3 said, you know, Mrs. Gentry, my ex-wife, she perjured</p> <p>4 herself, I would like a chance to reconvene so that I</p> <p>5 could show proof of that. And the judge said, And you</p> <p>6 don't think you're going to get to do that in the</p> <p>7 final hearing? And out of respect, I just didn't</p> <p>8 respond.</p> <p>9 But when we got to the final hearing and</p> <p>10 I wanted to show him proof of their perjury, he</p> <p>11 manipulated the proceedings, and he would not allow me</p> <p>12 to present evidence. He would not allow me that line</p> <p>13 of questioning. The judge was manipulating</p> <p>14 proceedings against me. So I listed all these things</p> <p>15 off, and I said -- and -- in my final motion to alter,</p> <p>16 and I said, you know, Again, I would ask you to recuse</p> <p>17 yourself from these pleadings -- from these</p> <p>18 proceedings based and appearance of bias, and, if not,</p> <p>19 I would ask you to state in writing your reasons for</p> <p>20 denying my motion for recusal. And I think -- you</p> <p>21 know, all of that stuff, where he's denying my</p> <p>22 motions, where he's manipulating proceedings, I think</p> <p>23 that's all a perfectly reasonable basis for an</p> <p>24 appearance of bias.</p> <p>25 So that was -- I forget the exact date,</p>

<p style="text-align: right;">Page 66</p> <p>1 but when the Court entered the final ruling and denied 2 my motion to recuse, ten days later I filed a recusal 3 appeal, Rule 10B, recusal appeal with the appellate 4 court. The appellate clerk came back and they said, 5 Your petition for recusal appeal appears to be 6 untimely and is therefore denied. How hard is it -- 7 there's a -- there's a day one and day two, and you 8 calculate the days between, is it timely or is it not 9 timely? Right? But the Court -- the appellate court 10 said it appears to be filed untimely. 11 So the Court went on -- the appellate 12 court went on to say that the appellant has filed a 13 Rule 3 appeal, which is true. And he said, Therefore, 14 that's the proper avenue for him to address his 15 recusal issues, is in my Rule 3 appeal. Because this 16 appears timely and because I filed a Rule 3, my motion 17 for recusal appeal was denied. It seems a little 18 biased to me at this point. So I'm like, Okay, maybe 19 something happened. 20 My recusal appeal was 53 pages long, and 21 the -- I have 33 issues to address with the Court for 22 equitable distribution of assets, 33 issues that I 23 think are errors by the Court. 24 Tennessee Rules of Appellant Procedure 25 only allow a 50-page limit to an appellant brief, I've</p>	<p style="text-align: right;">Page 68</p> <p>1 case. And so I've asked the appellate court judge -- 2 I -- I just wanted to explain to this Court. I'm not 3 being frivolous with this stuff. 4 THE COURT: Normally, on motions to 5 recuse, I'm supposed to fast-track the decision, but 6 your motion to recuse is really prefaced on me doing 7 other things first in how I respond. So what I wanted 8 you to know, typically, I would act on the motion to 9 recuse, but I haven't done anything yet to cause me to 10 even consider recusal. So I'm going to rule on these 11 other things, and I'm taking under advisement. 12 MR. GENTRY: Could I just interject -- 13 THE COURT: Typically, a motion to 14 dismiss must be decided -- as a dispositive motion, 15 must be decided by me in 30 days. Because of the 16 Christmas holidays coming up, I don't think I'll make 17 the 30-day deadline. I'm just letting you know. Then 18 I will work through and then deal with the motion 19 to -- well, motion to strike will be done with the 20 motion to dismiss. But then I'll deal with the motion 21 to recuse. So I'm going to kind of do it backwards 22 and just give you a heads up on that. 23 MR. GENTRY: I would -- I would ask the 24 Court -- or make a motion to the Court, I will 25 withdraw that motion to recuse part of that amended</p>
<p style="text-align: right;">Page 67</p> <p>1 got 53 pages just for the recusal issues. And I have 2 33 issues, I need at least another page for them, for 3 each issue, to argue it to the appellate court. So I 4 filed a motion to exceed page limitations, saying, 5 Well, you told me that this was the proper venue to 6 bring it up, I need more pages. He said, Motion 7 denied, and two days later, dismissed that motion. 8 The argument that because I filed a 9 Rule 3 appeal and that precludes a Rule 10B appeal is 10 ridiculous. You're required to file a notice of 11 appeal or a Rule 3 appeal 30 days after the final 12 hearing. We all know this. The Court is not going to 13 rule on a Rule 10B appeal within 30 days. The 14 appellate court is not. 15 So according to the appellate court 16 judge's opinion, I would have had to either choose to 17 abandon my Rule 3 appeal or choose to allow my 18 Rule 10B to continue and run its course. And we know 19 that ain't the way it is. 20 So when the appellate court comes up with 21 flawed logic, that I have a Rule 3 and now I'm 22 precluded from a Rule 10 and that my motion for 23 recusal appears to be filed untimely and that, No, you 24 cannot exceed your page limitations, you know, it's a 25 violation of my civil rights, I think, also, in that</p>	<p style="text-align: right;">Page 69</p> <p>1 motion to strike at this time, if I may. 2 THE COURT: Okay. What I'm going to ask 3 then is, I want you to draft another order stating 4 that you orally stated in court that you are striking 5 your motion to recuse. So that leaves me with the 6 amended motion to strike and motion for default or 7 summary judgment, as well as a motion to dismiss. 8 MR. GENTRY: Thank you, Your Honor. 9 THE COURT: Okay. Are there any 10 supplemental opinions or argument that needs to be 11 made before I take this under advisement by either 12 side? 13 MS. BARNES: No, Your Honor. 14 THE COURT: Thank you. 15 By yourself? 16 MR. GENTRY: No. And thank you again, 17 Your Honor. 18 THE COURT: Like I said, it's going to be 19 more than 30 days, and I apologize for that. My law 20 clerk is a new mother, and we have Christmas coming up 21 with two little boys, so it will be January. 22 Happy holidays everyone. Thank you. 23 (Proceedings adjourned at 11:20 a.m.) 24 25</p>

JOHN ANTHONY GENTRY v. PAMELA ANDERSON TAYLOR, ET AL.
Hearing on 12/09/2016

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1	CERTIFICATE
2	
3	STATE OF TENNESSEE)
4	COUNTY OF DAVIDSON)
5	
6	I, Deborah M. Fernau, a shorthand reporter, do
7	hereby certify that the foregoing proceedings were
8	taken down and transcribed under my direction to the
9	best of my ability.
10	
11	Signed on December 21, 2016.
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24	Deborah M. Fernau, LCR No. 306
25	Expiration Date: 06/30/2018